

REMARKS

Claims 36-68 are pending in the application with claims 36, 45, 51 and 62 being independent.

The title of the invention is objected to as being not descriptive.

Claims 36-54 and 56-68 are rejected under 35 U.S.C. §102(e) as anticipated by Kloba (US 2002/0052916, hereinafter Kloba).

Claim 55 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an

independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Response to Appeal Brief

On Dec 29, 2009, Applicants filed an Appeal Brief in the instant case. In reply, the Examiner simply issues an Office Action in which the Brief was not even acknowledged. The Office Action simply states in the office Action Summary:

“1) Responsive to communications filed on 12/29/2009.”

According to MPEP §1207:

“After an appeal brief under 37 CFR 41.37 has been filed and the examiner has considered the issues on appeal, the examiner may: (A) reopen prosecution with approval from the supervisory patent examiner (see MPEP §1207.04); (B) withdraw the final rejection and allow the application if the examiner determines that the rejections have been overcome and no new ground of rejection is appropriate; or (C) maintain the appeal by conducting an appeal conference (MPEP §1207.01) and draft an examiner’s answer (MPEP §1207.02). Any examiner’s answer mailed on or after September 13, 2004 may include a new ground of rejection (MPEP §1207.03).”

As articulated above, the Examiner simply issued an Office Action with a new ground of rejection. Under these circumstances, i.e., after an appeal has been filed, the Examiner’s response is limited to the above three (3) options. Accordingly, Applicants respectfully request that this Office Action be withdrawn and the appropriate course of action be undertaken.


CONCLUSION

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall or Emmanuel Coffy at (732) 842-8110 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 5/29/10



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